

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11
:
COLLAVINO CONSTRUCTION COMPANY INC. : Case No. 14-12908 (SCC)
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Debtor. :
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**STIPULATED AND AGREED TO ORDER BY AND AMONG THE
PARTIES TO PENDING STATE COURT ACTION AND ADVERSARY
PROCEEDING CONTINUING PRELIMINARY INJUNCTION HEARING**

WHEREAS, on October 17, 2014 (the “Petition Date”), the Debtor filed a voluntary petition for relief pursuant to chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”); and

WHEREAS, as of the Petition Date, there was pending an action commenced on November 8, 2013 by Triboro Hardware & Industrial Supply Corp. against The Port Authority of New York and New Jersey, Tishman Construction Corp., 1 WTC Holdings LLC, a/k/a 1 World Trade Center, LLC and Tower 5 LLC in the Superior Court of New Jersey, County of Hudson, under Docket No. HUD-L-5272-13 (the “New Jersey Action”); and

WHEREAS, on November 3, 2014, the Debtor moved (the “Motion”), by order to show cause, for entry of an order pursuant to sections 105(a) and 362(a) of the Bankruptcy Code (i) enforcing the automatic stay imposed by section 362(a) of the Bankruptcy Code as to the New Jersey Action in its entirety, and (ii) imposing sanctions on The Port Authority of New York and New Jersey, 1 WTC Holdings LLC, a/k/a 1 World Trade Center, LLC and Tower 5 LLC (the

“PA Defendants”) for continuing the prosecution of the New Jersey Action in violation of the automatic stay; and

WHEREAS, on November 3, 2014, the Bankruptcy Court entered an *Order to Show Cause Why an Order Should Not be Entered Pursuant to Sections 105(a) and 362(a) of the Bankruptcy Code Enforcing the Automatic Stay as to a Pending State Court Action* and conducted a hearing on the Motion on notice to counsel to the parties in the New Jersey Action; and

WHEREAS, on November 5, 2014, the Court issued an *Order Granting Debtor's Motion to Extend the Automatic Stay to a Pending State Court Action or, in the Alternative, for Injunctive Relief* (the “TRO Order”) temporarily enjoining the prosecution of all claims and defenses in the New Jersey Action, requiring the Debtor to commence the instant Adversary Proceeding and scheduling further hearing on the Motion and an adversary proceeding to be commenced by the Debtor (the “Adversary Proceeding”) for November 25, 2014 at 2:00 p.m. (the “Preliminary Injunction Hearing”); and

WHEREAS, in accordance with the TRO Order, on November 7, 2014, the Debtor commenced the Adversary Proceeding by filing a complaint against Triboro Hardware & Industrial Supply Corp., Tishman Construction Corp. and the PA Defendants seeking (i) a declaratory judgment that the automatic stay applies to the New Jersey Action, (ii) preliminary and permanent injunctions enjoining the further prosecution of the New Jersey Action, and (iii) sanctions if and to the extent deemed appropriate by the Bankruptcy Court (Adv. Proc. No. 14-2402); and

WHEREAS, the parties to the Adversary Proceeding have agreed and consented to adjourn the Preliminary Injunction Hearing to December 15, 2014 and to extend the TRO Order through and including December 15, 2014;

NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO AND AGREED BY THE UNDERSIGNED PARTIES AND ORDERED BY THE COURT, that:

1. The Preliminary Injunction Hearing is adjourned from November 25, 2014 at 2:00 p.m. to December 15, 2014 at 10:00 a.m.
2. The TRO Order is continued and extended through and including the Preliminary Injunction Hearing.

Dated: November 20, 2014

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